



11/15/2006

SDMS Document ID



1059302

**Montana Department of
ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

November 15, 2006

Tom Aldrich
Vice-President, Environmental Affairs
Asarco
8222 S. 48th Street, Suite 220
Phoenix, AZ 85044

Subject: October 27, 2006 request to extend Montana Consent Decree,
CDV-2004-212, FID #729.

Dear Mr. Aldrich:

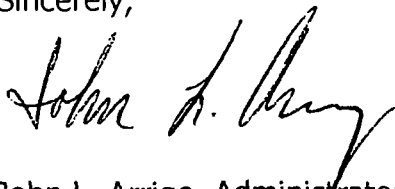
Hazardous waste storage violations at the Asarco East Helena Plant were resolved by the above-referenced Consent Decree that assessed a penalty and enabled a work plan to address waste removal and offsite disposal or recycling. The Consent Decree allowed for the onsite storage of hazardous waste without a permit, provided the work was completed by the end of 2006.

Work at the plant has now evolved into a demolition project and onsite disposal in the EPA-approved Corrective Action Waste Management Unit. Your October 27, 2006, letter requests, under the provisions of paragraph 30 of the Consent Decree, that the Department grant an extension until December 31, 2008 to complete the demolition and waste disposal work. Paragraph 30 was intended to allow for work plan modifications or time extensions, but not of the degree proposed in your letter. Also, because the Consent Decree does not address demolition and onsite disposal, it would not be appropriate to grant a long-term extension to a work plan that does not conform with the purpose of the Consent Decree. Therefore, the Department does not agree to grant an extension.

Tom Aldrich
November 15, 2006
Page 2

The Department appreciates Asarco's planned expenditure of funds and the reduction of the anticipated period for demolition and disposal from the originally proposed 5 additional years to only two more years. The Department would also like to see the waste management and disposal activities progress at the site in a legally-acceptable manner. If Asarco desires to continue waste removal and hazardous waste disposal activities under the authority of a State of Montana consent decree, the existing Consent Decree must be amended or a new one negotiated. If Asarco would like to pursue this option, please contact me as soon as possible to arrange a meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Arrigo". The signature is fluid and cursive, with the first name "John" being the most prominent.

John L. Arrigo, Administrator
DEQ Enforcement Division
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-5327
jarrigo@mt.gov

cc: Keith Christie, DEQ Legal Unit
Ed Thamke, DEQ Waste and Underground Tank Management Bureau
John Wardell, EPA Region 8, Montana Office
Jon Nickel, Environmental Manager, ASARCO East Helena Plant, P.O. Box 1230,
East Helena, MT 59635
Chuck Figur, EPA Region 8, 999 18th St., Suite 500, Denver, CO 80202-2405